

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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EPA---REGION 10

In the Matter of: )  
)  
Nooksack Indian Tribe ) Docket No. SDWA-10-2017-0012  
Nooksack River Casino )  
Public Water System )  
(ID# 105300084) ) ADMINISTRATIVE COMPLIANCE  
) ORDER  
)  
)  
Respondent. )

I. JURISDICTION

1.1. This Administrative Compliance Order (“Order”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300g-3(g). The Administrator has delegated this authority to the Regional Administrator, Region 10, who in turn delegated this authority to the Director of the Office of Compliance and Enforcement.

1.2. EPA has primary enforcement responsibility for public water systems on the Nooksack Indian Reservation pursuant to the regulations for implementation and enforcement of the National Primary Drinking Water Regulations set forth in 40 C.F.R. Parts 141-142.

II. FINDINGS

2.1. The Nooksack Indian Tribe is a “person” within the meaning of Section 1401(12) of SDWA, 42 U.S.C. 300(f)(12), and 40 C.F.R. § 141.2 for purposes of federal enforcement under the SDWA.

2.2. The Nooksack Indian Tribe ("Respondent") owns and/or operates the Nooksack River Casino Public Water System ("System") located on the Nooksack Indian Tribe Reservation in Washington State that provides water for human consumption.

2.3. The System serves approximately 100 employees and 1100 customers per day.

2.4. The System is a "public water system" within the meaning of Section 1401(4) of SDWA, 42 U.S.C. § 300(f)(4), and 40 C.F.R. § 141.2.

2.5. The System regularly serves at least 25 of the same persons over six months per year and is therefore a "non-transient non-community water system" within the meaning of 40 C.F.R. § 141.2.

2.6. Respondent owns and/or operates the System and therefore is a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent therefore is required to comply with the SDWA and its implementing regulations, 40 C.F.R. Part 141.

2.7. The System is solely supplied by a groundwater source.

### III. VIOLATIONS

3.1. 40 C.F.R. § 141.853 (a)(1) and 40 C.F.R. § 141.860 (c)(1) require public water systems to collect all required total coliform samples according to the written sample siting plan. Respondent failed to take every required routine sample at the System for the months of January through October 2016. Therefore, Respondent violated these requirements.

3.2. 40 C.F.R. § 141.132(c)(1) requires public water systems to measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled. Respondent violated 40 C.F.R. § 141.132(c)(1) by failing to measure the System for the residual disinfectant level at the same point in the

distribution system and at the same time as total coliforms should have been sampled during for the months January through October 2016. Therefore, Respondent violated these requirements.

3.3. 40 C.F.R. § 141.86 requires non-transient non-community water systems to collect lead and copper samples at certain points in the distribution system, after meeting certain conditions, once every three years in the sampling period of June through September. After meeting these conditions, Respondent failed to monitor the System in 2014 for lead and copper within the sampling period three years after the previous monitoring, which was received by EPA on July 26, 2011. Therefore, Respondent violated this requirement.

3.4. 40 C.F.R. § 141.404 requires a groundwater system, within 120 days of receiving written notice of significant deficiencies from EPA, to either correct the significant deficiencies or develop an approved corrective action plan (“CAP”) on how and when the deficiencies will be addressed and to maintain compliance with the CAP and schedule. EPA provided Respondent written notice of significant deficiencies on November 5, 2013 following the sanitary survey of the System conducted on August 15, 2013. *See* Attachment A. Respondent failed to submit a CAP or provide evidence that the significant deficiencies had been addressed within 120 days. EPA provided Respondent a notice of being out of compliance with this requirement to the operators on April 2, 2014, and to the Chairman of the Nooksack Tribe on April 29, 2014, to which EPA did not receive a response. Therefore, Respondent violated this requirement.

3.5. 40 C.F.R. § 141.31 requires public water systems to report to EPA the results of any test measurement or analysis required by 40 C.F.R. Part 141 within ten days following the month in which the result is received, or within the first ten days following the end of the required monitoring period stipulated by EPA, whichever of these is shortest. 40 C.F.R. § 141.31 also requires public water systems to report to EPA within 48 hours the failure to comply with

any primary drinking water regulation. Respondent violated 40 C.F.R. § 141.31 by failing to notify EPA of the violations listed in paragraphs 3.1 through 3.4 above.

3.6. 40 C.F.R. Part 141, Subpart Q requires public water systems to notify persons served by the system of certain violations of drinking water regulations. Respondent violated 40 C.F.R. Part 141, Subpart Q by failing to give notice of the violations described in paragraphs 3.1 through 3.4 above to the persons served by the System.

#### IV. ORDER

Based upon the foregoing Findings and Violations, and pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300(g)-3(g), it is hereby ordered as follows:

4.1. For at least three consecutive months after the receipt of this Order, Respondent shall collect all required total coliform samples at sample site numbers identified in the Monitoring Plan Summary of the System's Water Quality Management Plan attached to this Order as Attachment B. Results must be submitted to EPA no later than the 10<sup>th</sup> day of the month following the month the samples are collected.

4.2. For at least three consecutive months after the receipt of this Order, Respondent shall measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled. Results must be submitted to EPA no later than the 10<sup>th</sup> day of the month following the month the samples are collected.

4.3. By no later than September 30, 2017, Respondent shall collect first-draw lead and copper tap samples at the ten tier one site numbers identified in the Monitoring Plan Summary of the System's Water Quality Management Plan attached to this Order as Attachment B. Results must be submitted to EPA no later than October 10, 2017.

4.4. Within 60 days of the effective date of this Order, Respondent shall correct any remaining significant deficiencies identified in EPA's November 5, 2013 letter and provide documentation of such corrective actions and/or provide EPA with a new CAP approved by EPA.

4.5. Within 60 days of the effective date of this Order, Respondent shall issue a Tier 3 public notice for violations listed in sections 3.1 through 3.4 above.

4.6. Within 60 days of the effective date of this Order, Respondent shall send EPA a copy of the public notice and a certification that the System has fully complied with the public notification regulations.

4.7. Respondent must provide the public notices required above by mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered. The public notices must also be delivered to other persons regularly served by the system via any other method reasonably calculated to reach persons regularly served by the system who would not normally be reached via mail or other direct delivery. Other methods of delivery include publication in a local newspaper, posting in public places or on the Internet, or email. If a notice is posted, it must remain in place for as long as the violation persists, but in no case less than seven days, even if the violation is resolved.

#### V. SANCTIONS

5.1. For violations of this Order, Respondent may be subject to a civil penalty of not more than \$54,789 per day of violation pursuant to Section 1414(g)(3)(A) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A) and 40 C.F.R. Part 19.

5.2. Nothing in this Order shall be construed to relieve Respondent of any applicable requirements of federal, state, or local law. EPA reserves the right to take enforcement action as authorized by law for any violation of this Order, and for any future or past violation of any applicable legal requirements of the SDWA including, but not limited to, the violations identified in Part III of this Order.

5.3. The provisions of this Order are binding upon Respondent, and all officers, directors, agents, employees, successors, and assigns of Respondent.

5.4. Respondent may seek federal judicial review of the Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

5.5. This Order is effective upon receipt by Respondent.

Issued: April 6, 2017.



Edward J. Kowalski, Director  
Office of Compliance and Enforcement

## Attachment A





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
WATER AND WATERSHEDS

November 5, 2013

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Mr. Joseph Johnson-Bob  
Nooksack Indian Tribe  
P.O. Box 157  
Deming, WA 98244

Re: Sanitary Survey Significant Deficiencies at Nooksack River Casino, #105300084

Dear Mr. Johnson-Bob:

Thank you for having your sanitary survey conducted by Indian Health Service's tribal utility consultant James Earl, on August 15, 2013. The National Primary Drinking Water Regulations (40 CFR Part 141) require that sanitary surveys be conducted at public water systems at least every three to five years, depending on the type of system and size. The purpose of this letter is to inform you that significant deficiencies were identified at your drinking water system, Nooksack River Casino, during the sanitary survey.

These significant deficiencies have the potential to impair your water quality and jeopardize public health. Significant deficiencies require immediate attention in the form of corrective actions. Within 120 days from receipt of this certified letter, your system must either complete the corrective actions or be on an approved corrective action plan. Failure to meet these requirements will result in a violation. Your response to these significant deficiencies will help make certain that potential problems can be addressed, corrected, and avoided.

Enclosed is a corrective action plan template for your drinking water system as well as instructions that detail the steps you are required to complete. If you have any questions regarding this letter, please do not hesitate to contact me at (206) 553-6917 or [Jacobsen.lisa@epa.gov](mailto:Jacobsen.lisa@epa.gov)

Sincerely,

A handwritten signature in black ink that reads "Lisa Jacobsen".

Lisa Jacobsen  
Tribal Drinking Water Coordinator

Enclosure: Corrective Action Plan  
Corrective Action Plan Instructions

cc: James Earl, Indian Health Services



# Corrective Action Plan

EPA Region 10

## Tribal Public Water System Supervision Program

All public water systems are required to undergo sanitary surveys. Public water systems using groundwater water must consult EPA about required corrective actions within 30 days of being notified of a significant deficiency and must complete corrective actions or be in compliance with an approved Corrective Action Plan within 120 days of receiving notice of significant deficiencies (40 CFR 141.403 (a)). Public water systems with surface water sources must be in compliance with a corrective action plan within 45 days of receiving notice of a significant deficiency (40 CFR 141.723).

EPA may specify shorter deadlines if the deficiency poses a high health risk. The corrective action plan must provide a written description of how and on what schedule significant deficiencies will be addressed. This Corrective Action Plan form will meet this requirement, other formats are acceptable.

<b>PWSID:</b>	105300084
<b>System Name:</b>	Nooksack River Casino Water System
<b>Primary Source:</b>	Groundwater
<b>Sanitary Survey Date:</b>	8/15/2013
<b>Surveyor:</b>	James Earl
<b>Notice Date:</b>	11/5/2013

<b>Corrective Action Plan Due Date:</b>	3/15/2014
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Deficiency	Milestone/Corrective Action Description	Schedule to Address Deficiency	Scheduled Date	Accomplishments (date completed)
Nooksack River Casino Public Water System - Operator Compliance - Need manager certified at the appropriate level. - Provide Corrective Action Plan				
Nooksack River Casino Public Water System - Management - Written standard operating protocol needed. - Provide Corrective Action Plan				

Deficiency	Milestone/Corrective Action Description	Schedule to Address Deficiency	Scheduled Date	Accomplishments (date completed)
Nooksack River Casino Public Water System - Management - Emergency response plan needed. - Provide Corrective Action Plan				
Nooksack River Casino Public Water System - Management - Cross-connection control program needed. - Provide Corrective Action Plan			3/15/2014	
Nooksack River Casino Public Water System - Sources - No raw sample tap. - Correct Deficiency				
-				
-				
-				
-				
-				

List any additional attachments included with this plan:

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<b>Deficiency</b>	<b>Schedule to Address Deficiency</b>		<b>Accomplishments (date completed)</b>
	<b>Milestone/Corrective Action Description</b>	<b>Scheduled Date</b>	

I understand that failing to meet an EPA approved Deficiency Corrective Action Plan may constitute a violation of the Safe Drinking Water Act.

Name (print) \_\_\_\_\_ address \_\_\_\_\_

Phone \_\_\_\_\_ email \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

<b>EPA Use Only</b>	
approved by (print) _____	consultation date _____ closed date _____
Compliance Officer Signature _____	Date _____

## Attachment B



## River Casino Monitoring Program Summary

Constituent	Site #	Sample Quantity	Frequency	Next Sample Due Date
Coliform (40 CFR §141.21)	RC-04, RC-08, RC-09, and RC-11	Two	Monthly	1st week of the month. Record chlorine residual on lab slip.
Nitrate (40 CFR §141.23(d))	RC-01	One	Annual	Anytime between 01/01/14-12/31/14
IOCs (40 CFR §141.23)	RC-01	One	3 years	Anytime between 01/01/14-12/31/16
VOCs (40 CFR §141.24)	RC-01	One	3 years	Anytime between 01/01/14-12/31/16
SOCs (40 CFR §141.24)	RC-01	One	3 years	Anytime between 01/01/14-12/31/16
Lead & Copper* (40 CFR §141.80)	RC-02, RC-03, RC-04, RC-05, RC-06, RC-07, RC-08, RC-09, RC-10 and RC-11	Ten	3 years	Anytime between 06/01/14-09/30/14
TTHM & HAA5 (Stage 2 Rule 40 CFR Part 141 Subpart V)	RC-02 and RC-06	One TTHM One HAA5 at each site		Anytime between 8/1/14 – 8/31/14

\* If you are no longer able to collect a lead and copper sample from a site listed in the Monitoring Program Summary, please contact your TUC to help identify a new sample site.

**NOTE:** EPA sampling requirements for IOC, VOC, and SOC are based on the Federal Analyte Lists shown on pages 7-9 Supply these lists to the laboratory doing the analysis. Washington/Idaho State lists do not always meet EPA requirements.

**Water Source Sampling Note:** To perform a finished water sample, the well pump to be sampled should be run manually in hand for 5 minutes before collecting a sample.



Certificate of Service

The undersigned certifies that the original of the attached **ADMINISTRATIVE COMPLIANCE ORDER, In the Matter of: Nooksack Indian Tribe, Nooksack River Casino, Public Water System. Docket No.: SDWA-10-2017-0012**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

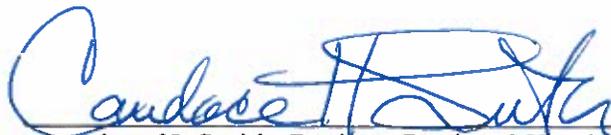
Adam Baron  
Drinking Water Compliance Officer  
U.S. EPA, Region 10 (OCE-101)  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail to:

Chairman Bob Kelly  
Nooksack Indian Tribe  
5016 Deming Road  
Deming, WA 98244

And to:  
Katherine Canete, General Manager  
Rickie Wayne Armstrong, Tribal Attorney  
Richard Edwards, Facilities and Maintenance Director  
Joseph Johnson-Bob, PWS Operator

DATED this 7th day of April, 2017



Candace H. Smith, Back up Regional Hearing Clerk  
EPA Region 10

